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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,276	02/24/2000	Takaaki Nagao	PM266298	5207

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EXAMINER

TRAN, LOUIS B

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/512,276

Applicant(s)

NAGAO ET AL.

Examiner

Louis B Tran

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 7 and 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 7,9-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 12.
2. Applicant's election of Species I, claims 1-6 and 8, in Paper No. 12 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Schuster (4,681,225).

Schuster anticipates the inherent method steps of packing a glass base material into a cylindrical container in Figure 5.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster in view of Curry, Jr. (4,267,928).

Schuster discloses the invention methods substantially as claimed including a glass base material but does not show the method step of putting a glass base material into a plastic bag and packing said glass base material into a cylindrical container.

However, Curry, Jr. teaches the method step of placing a glass material into a plastic bag 12 and packing said glass into a cylindrical container, seen in Figure 3, as described in column 2 line 17 of Curry, Jr. for the purposes of protection from moisture or liquids as stated in line 28 of the Curry, Jr. abstract.

Therefore it would have been obvious to provide Schuster with the method of placing glass in a plastic bag in order to protect a product.

6. Claims 3,4, 5, and 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster in view of Curry, Jr. (4,267,928) and in further view of Kolsky (5,274,846).

With respect to claim 3, the modified method discloses the invention methods substantially as claimed including capping both ends of a cylindrical container with caps, 16, 18 (as in claim 6), and the inherent steps of placing a glass base material into a cylindrical container with a cushioning layer wrapped about the glass material, as seen in Figure 5 of Schuster, but does not show the method step utilizing air packing material.

However, Kolsky teaches the use of three layer (as in claim 4) air cushioning material for the well-known purpose of reducing damage from impact as discussed in column 1, line 16.

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Therefore, it would have been obvious for one having ordinary skill in the art to provide the modified steps with air cushioning material as a substitute cushioning material in order to provide improved protection.

With respect to claim 5, the modified method steps also discloses the method steps of packing a glass base material in a cylindrical container that has a larger diameter than the glass contained as described in column 3, line 34 of Schuster.

Although Schuster does not show the diameter being explicitly 10 mm larger than the container, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make a clearance of 10 mm since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schuster in view of Curry, Jr. (4,267,928) and Kolsky (5,274,846) and in further view of Dhority et al.(5,236,088).

Schuster in view of Curry, Jr. (4,267,928) and Kolsky (5,274,846) discloses the invention substantially as claimed as described above but does not show a method of packing that provides an inside cap which has a shape that can fit with a shape of an end of a glass material on a space between glass and cap.

However, Dhority et al. teaches an inside cap 11 having a shape that can fit with a shape of said glass material in a space between glass and cap for the purpose of cushioning and supporting the contents of the container as in column 4, line 8.

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Therefore, it would have been obvious for one having ordinary skill in the art to provide the modified steps with a shape that can fit with a shape of said glass material in a space between glass and cap in order to cushion and support fragile material.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are Beausoleil et al., Sexton, Prevot, Andersen et al., Mears, Houtman, Kannankeril et al., and Wilkinson.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7718 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt  
April 18, 2002



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700